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# HOUSE BILL No. 1936

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 6-4.1.

**Synopsis:** Inheritance tax exemptions. Provides that each family member inheriting a family farm or a family business is allowed an Indiana inheritance tax exemption equal to the amount of the estate's unified credit against the federal estate tax. Provides that the amount of the exemption increases incrementally to \$1 million for family farms and family businesses transferred by persons who die after June 30, 2006. Requires transferees who inherit a family farm or a family business to materially participate in the operation of the farm or business for at least five years following the person's death. Provides that the amount of inheritance tax that exceeds the exemptions available under current law is subject to recapture if the transferee disposes of the property or ceases to use the property for the family farm or family business. Provides that the finally determined federal estate tax value of a property interest is presumed to be the fair market value of the property interest for Indiana inheritance tax purposes in all circumstances. (Current law provides that the finally determined federal estate tax value does not apply to family farms and family businesses valued under Section 2032 of the Internal Revenue Code and requires the transferees to use the property's fair market value.)

**Effective:** July 1, 2001.

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## Grubb, Cherry, Goodin, Friend

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January 17, 2001, read first time and referred to Committee on Ways and Means.

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Introduced

First Regular Session 112th General Assembly (2001)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2000 General Assembly.

## HOUSE BILL No. 1936

A BILL FOR AN ACT to amend the Indiana Code concerning taxation.

*Be it enacted by the General Assembly of the State of Indiana:*

1 SECTION 1. IC 6-4.1-1-6.5 IS ADDED TO THE INDIANA CODE  
2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
3 1, 2001]: **Sec. 6.5. "Member of the decedent's family" means:**

- 4 (1) the decedent's spouse;  
5 (2) a lineal ancestor of the decedent; or  
6 (3) a lineal descendant of the decedent.

7 SECTION 2. IC 6-4.1-1-10.5 IS ADDED TO THE INDIANA  
8 CODE AS A **NEW** SECTION TO READ AS FOLLOWS  
9 [EFFECTIVE JULY 1, 2001]: **Sec. 10.5. As used in IC 6-4.1-3-11.5,**  
10 **the term "qualified property interests" refers to real property**  
11 **located in Indiana that meets the following criteria:**

- 12 (1) That on the date of a person's death the real property was  
13 being used by the decedent or a member of the decedent's  
14 family for a qualified use.  
15 (2) That during the eight (8) year period ending on the date of  
16 a person's death there have been periods aggregating at least  
17 five (5) years during which:

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(A) the real property was owned by the decedent or a member of the decedent's family;

(B) the real property was used for a qualified use; and

(C) the decedent or a member of the decedent's family materially participated in the operation of the farm or other business.

SECTION 3. IC 6-4.1-1-10.7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: **Sec. 10.7. As used in IC 6-4.1-3-11.5, the term "qualified transferee" means an individual who:**

(1) is a Class A transferee (as defined in section 3 of this chapter);

(2) receives a qualified property interest from the estate of a decedent; and

(3) agrees to materially participate in the management of the real property in the continued qualified use of the real property.

SECTION 4. IC 6-4.1-1-10.9 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: **Sec. 10.9. The term "qualified use" means the devotion of real property to one (1) of the following uses:**

(1) As a farm for farming purposes.

(2) In a trade or business other than the trade or business of farming.

SECTION 5. IC 6-4.1-3-11.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: **Sec. 11.5. (a) With respect to a person who dies after June 30, 2001, the amount of the decedent's qualified property interests transferred to a qualified transferee as set forth in the following table is exempt from the inheritance tax:**

<b>DATE OF DEATH</b>	<b>AMOUNT OF EXEMPTION FOR QUALIFIED TRANSFEREE</b>
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<b>After June 30, 2001, and before July 1, 2002</b>	<b>The first \$675,000</b>
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<b>After June 30, 2002, and before July 1, 2003</b>	<b>The first \$700,000</b>
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<b>After June 30, 2003, and before July 1, 2004</b>	<b>The first \$850,000</b>
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<b>After June 30, 2004, and before July 1, 2005</b>	<b>The first \$900,000</b>
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<b>After June 30, 2005, and</b>	<b>The first \$950,000</b>
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- 1                    **before July 1, 2006**  
 2                    **After June 30, 2006**                    **The first \$1,000,000**  
 3                    **(b) Notwithstanding IC 6-4.1-4-0.5, an inheritance tax return**  
 4                    **must be filed under IC 6-4.1-4-1 regardless of whether the**  
 5                    **exemption allowed in subsection (a) to a qualified transferee**  
 6                    **exceeds the total fair market value of the property interests**  
 7                    **transferred by the decedent.**  
 8                    **(c) To obtain the exemption provided under this section, a**  
 9                    **qualified transferee of qualified property interests transferred by**  
 10                    **the decedent shall file an agreement to materially participate in the**  
 11                    **continued qualified use of the qualified property interest with the**  
 12                    **appropriate probate court. A qualified transferee may file a copy**  
 13                    **of an agreement required under Section 2032 of the Internal**  
 14                    **Revenue Code to satisfy the requirements of this subsection.**  
 15                    **(d) The amount of inheritance tax exempted under this section**  
 16                    **that exceeds the exemption available under section 10 of this**  
 17                    **chapter is subject to recapture if the qualified transferee does one**  
 18                    **(1) of the following within five (5) years after the date of the**  
 19                    **person's death:**  
 20                    **(1) Disposes of an interest in the qualified property interests,**  
 21                    **except for a disposition to a member of the qualified**  
 22                    **transferee's family.**  
 23                    **(2) Ceases to use the qualified property interests for a**  
 24                    **qualified use.**  
 25                    **(e) If a qualified transferee disposes of a partial interest or**  
 26                    **ceases to use a part of the real property subject to subsection (d),**  
 27                    **the department shall recapture the exempted inheritance tax on a**  
 28                    **pro rata basis.**  
 29                    **(f) The amount of inheritance tax recaptured under this section**  
 30                    **is due and payable within six (6) months after the date on which the**  
 31                    **qualified transferee disposed of the real property or ceased using**  
 32                    **the real property for a qualified use.**  
 33                    **SECTION 6. IC 6-4.1-5-1.5 IS AMENDED TO READ AS**  
 34                    **FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 1.5. (a) For purposes**  
 35                    **of determining the fair market value of each property interest**  
 36                    **transferred by a decedent, the appraisal date for the property interest is**  
 37                    **the date used to value the property interest for federal estate tax**  
 38                    **purposes. However, if no federal estate tax return is filed for the**  
 39                    **decedent's estate, the appraisal date for each property interest**  
 40                    **transferred by the decedent is the date of the decedent's death.**  
 41                    **(b) The finally determined federal estate tax value of a property**  
 42                    **interest is presumed to be the fair market value of the property interest**

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1 for Indiana inheritance tax purposes. ~~unless the federal estate tax value~~  
2 ~~is determined under Section 2032A of the Internal Revenue Code.~~  
3 However, the presumption is rebuttable. ~~A property interest that is~~  
4 ~~valued for federal estate tax purposes under Section 2032A of the~~  
5 ~~Internal Revenue Code shall be valued for Indiana inheritance tax~~  
6 ~~purposes at its fair market value on the appraisal date prescribed by~~  
7 ~~subsection (a).~~

8 SECTION 7. [EFFECTIVE JULY 1, 2001] IC 6-4.1-5-1.5, as  
9 amended by this act, applies to the estate of a person who dies after  
10 June 30, 2001.

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